

**From:** Daniel Lee  
**To:** 'microsoft.atr(a)usdoj.gov'  
**Date:** 1/26/02 4:22pm  
**Subject:** Microsoft Settlement

Dear Sir/Madam:

My Name is Daniel Lee of San Mateo, CA, I am a professional computer programmer. I feel very strongly that the current Proposed Final Judgement (PFJ) is insufficient to prevent further abuses by Microsoft and fails to punish Microsoft for past misdeeds.

Many have pointed out problems with the PFJ's sections concerning the API's with regard to their definition, distribution and documentation. I wish to point out the main tool through which Microsoft has illegally maintained their monopoly.

One of the most fundamental tenets of U.S. Anti-trust (Clayton Act, 1914) law is that the holder of an essential resource (a railroad trunk or other monopoly) cannot use this hold to restrain trade. The Clayton Act of 1914 specifically prohibits exclusive dealing and similar anticompetitive acts. Microsoft, by virtue of its possession of the Microsoft Windows operating system, through restrictive licensing has specifically prohibited the purchase and installation of potential competitors by OEM's.

In February of 1999, the CEO of Be, Inc., a potential competitor to Microsoft Windows in the OS arena, offered PC makers their BeOS operating system for free. Many PC manufacturers expressed interest, after all, they could then offer their computers with a added value for very little expense themselves. But only one (Hitachi) eventually installed the OS on their computers, and then so thoroughly hidden that it required more than 10 steps to start up the BeOS.

The current PFJ fails to prohibit these and other anticompetitive practices by Microsoft towards OEMs. Specifically, the PFJ allows Microsoft to retaliate against any OEM that ships personal computers containing a competing OS but no Microsoft operating system.

In view of this deficiency and the others pointed out in Dan Kegel's analysis (on the Web at <http://www.kegel.com/remedy/remedy2.html>) I have reached the conclusion that the Proposed Final judgement, as written, would allow

Microsoft  
to continue its significant anticompetitive practices. The Proposed Final  
Judgement is not in the public interest.

Sincerely,

Daniel Lee  
San Mateo, CA  
Senior Software Engineer